

ALFRED HITCHCOCK'S

mystery magazine

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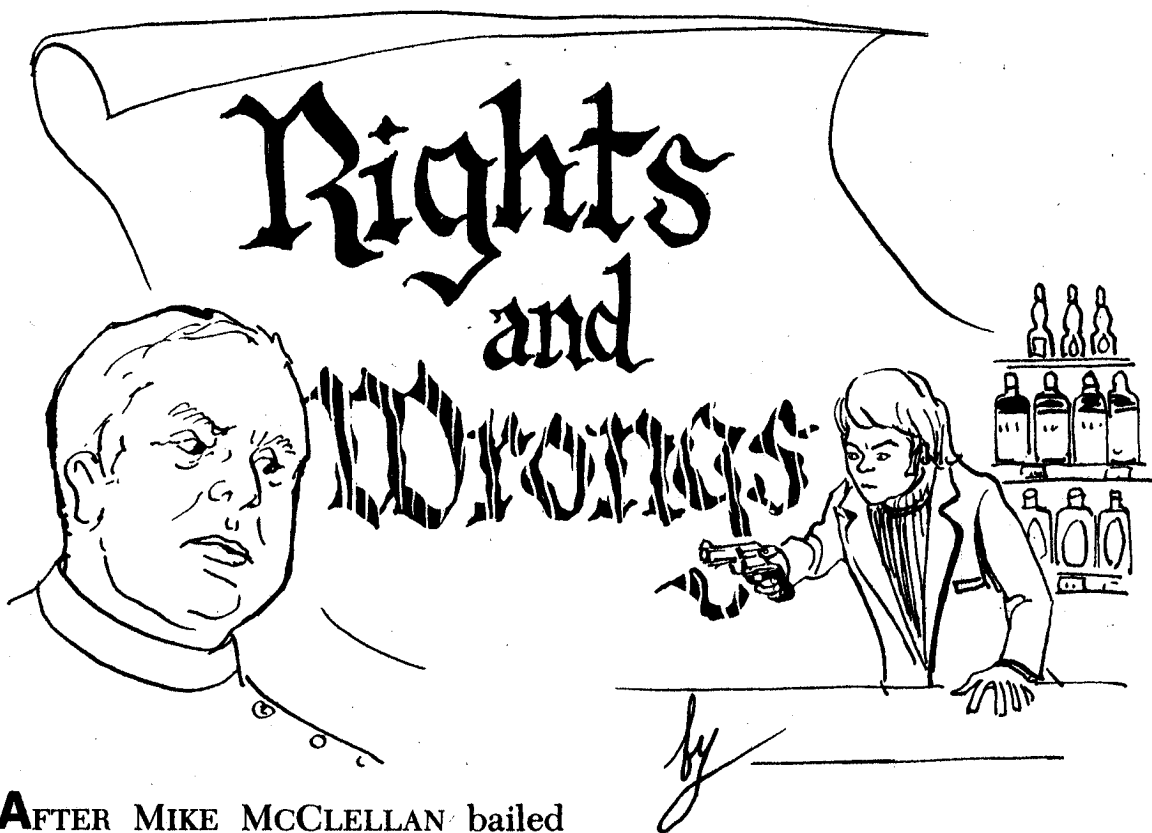
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It is wise to remember the mistakes of others in a key situation.



AFTER MIKE MCCLELLAN bailed out his kid brother Andy, he brought him to me. "This is your lawyer now," he told him. "He works for the organization and he's a specialist when it comes to stupid trouble like yours."

"What seems to be the problem?" I asked.

Mike indicated his brother. "He got himself caught trying to hold up a drugstore."

Andy was about nineteen, thin, and well-dressed. He looked out of the window.

Mike shook his head sadly. "Don't I give the kid everything? Money? Just ask. The Ferrari; the Karmann Ghia convertible; clothes;

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the best female companionship. And still he's got to rob a drug-store."

"Maybe he was looking for drugs?"

"No," Mike said firmly. "I check his arms every day—and other places. I don't allow dope in the family."

I turned to Andy. "Why?" I asked. "Why?"

Andy shrugged. "I don't know. I had a couple of drinks. Just seemed like a good idea at the time. I mean for the excitement—like in the old days that Mike always talks about."

Mike looked worried. "You don't think it's in the genes, do you?"

I got out a pad and paper. "Tell me what happened, Andy."

Andy sighed. "Well, I waited until nobody was in this store but me and the owner. I was in the back where the patent medicines are, and finally the druggist comes over and asks what he can do for me. I make sure that nobody sees me from the street, then I pull the gun and tell him it's a stickup."

Andy rubbed at a red spot on his neck. "The druggist is a big guy, and quick. The next thing I know, he's got the gun and he's sitting on my chest with his hands around my throat."

I made a note of that. "Ever been arrested before? Got a record?"

"No. Nothing until this."

"Is the gun yours? Is it registered in your name?"

"No. It was just a thing I picked up from a guy for thirty bucks." Andy cleared his throat and winced at the operation. "Well, anyway, the general commotion and the shot attracted attention. Four people from the haberdashery next door came rushing in."

"There was a shot?"

"Yes, when he grabbed the gun away from me. Nobody was hurt though; the bullet went into the ceiling."

"Four people rushed into the store?"

"Right. Then this druggist—Morgan is his name—pulls me to my feet and says, 'This is a citizen's arrest. You are my prisoner.'"

Mike looked at me. "Could he do that? Not be a cop and still arrest Andy?"

I nodded. "He was grandstanding for his audience, but it's legal. A citizen has the right to arrest anyone he witnesses in the act of committing a felony."

Andy shifted uneasily. "Well, it looked to me like Morgan was going to resume the grip around my throat. At a time like that you don't think about tomorrow. You think about the next breath and I wasn't so sure he was going to let me have it. So I said it. In front of the witnesses."

"You said what?" I asked him.

"I said, 'All right, all right. So I tried to hold up your crummy store and it didn't work. That's no reason to kill me.'"

We were all silent for a while. Then I sighed. "What happened next?"

"One of the people called the cops and they got there in three minutes. I was glad to see them."

"What did you tell the police?"

"Nothing. I clammed up. They weren't about to choke me."

We drove to the courthouse and left Andy in the car while Mike and I went to the D.A.'s office to see if things were as bad as they looked. I was directed to Assistant District Attorney Chesson.

Chesson and I had met a number of times in court and he was not exactly one of my admirers. However, he smiled. "Look, we don't want to go hard on the kid. He's a first offender—he just made a mistake. Have him plead guilty and I'll ask the court to go easy. He'll get probation. You have my word for that."

I knew one thing. Chesson's word was good.

I knew another. Chesson didn't much like the organization or anybody named McClellan. Why was he doing this favor?

"We'll sleep on it," I said. "I'll let you know tomorrow."

Outside, Mike McClellan frowned. "I don't want to tell you your business, but the offer sounded good to me."

I nodded. "If keeping Andy out of jail is all that you want. But if he pleads guilty, he'll still have a record. Do you want that?"

Mike thought about it. "No. Not if I can help it."

When I got back to my office, I phoned the Wilson Detective Agency and asked for a quick check on Morgan, the druggist.

At four that afternoon, Wilson phoned in his report.

I listened to what he had to say and only one thing made any impression. Morgan had been arrested twice for assault and battery when he was still in his teens.

I drove to the Northfield Shopping Center, parked my car, and strolled the perimeter of the parking lot until I found Morgan's drugstore. Inside, I wandered back to the patent medicine section and waited until Morgan came to me.

"Is this where it happened?" I asked. "The holdup? I read about it in the papers."

Morgan nodded, pleased with the recognition. "Right on this spot. He pulled a gun on me and I took it away from him." He indicated a hole in the ceiling. "The cops dug a bullet out of there."

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"Sure. It's the common-law right of *any* citizen."

"Of course. So you arrested this man whom you allege had been trying to rob you?"

Morgan frowned at my use of the word *allege*. "Who are you?"

"I'm the defendant's lawyer."

He turned cold. "I don't have to talk to you."

"Perhaps not. At least not here. However, I thought that we might as well clear up a few things now to save you embarrassment later in court. Unless, of course, you're afraid to answer questions?"

He reacted in the typical big-man way. "I'm not afraid of anything."

"Good," I said. "When this alleged holdup occurred there were only the two of you in the store?"

"That's right. Just me and the defendant."

"Then it is just your word against his that this incident ever occurred in the way that you claim it did?"

Morgan smiled confidently. "Four people besides me heard him admit that he tried to rob the store."

"But did they *see* him point the gun at you?"

"Well . . . no."

I nodded pleasantly. "This gun you speak about. Perhaps you could tell me more about it?"

"Me? What would I know about

his gun? Why don't you ask him?"

I blinked. "*His* gun? According to my client, he never saw it before until this incident. He maintains that it dropped from your pocket and discharged during the struggle." I frowned thoughtfully. "I suppose the police have the gun now?"

"Sure. They took it along."

"And *your* fingerprints are on the gun?"

"Well . . . yes. I grabbed it away from him. My fingerprints would be on the gun, but so would *his*."

I pondered on that. "Rather a cold day yesterday. Below freezing. I wonder if my client wore gloves? I'll have to ask him." I smiled again. "My client claims that the entire incident seemed to occur because he tried to return a bottle of Father John's cough medicine for a refund. The two of you quarreled and suddenly you grasped him by the throat and hurled him to the floor—at which time the so-called witnesses entered the picture."

Morgan seemed about to explode.

"Mr. Morgan," I said, "isn't it true that you have a very short temper?"

"No, damn it. Not particularly."

"Weren't you arrested twice for participating in barroom brawls?"

"But that was over thirty years ago!"

"Of course," I said. "Did you know that the defendant has absolutely no criminal record of any kind?"

"There's always a first time."

"Did you know that the defendant is quite generously provided for by his brother? He is given all the money he wants. Why would he want to rob your drugstore?"

"Maybe he was after drugs."

"I am ready to submit my client to a medical examination. He is not a dope addict."

Morgan played his trump card again. "He confessed before me and four other witnesses."

"Ah, yes," I said. "After you had arrested the defendant. Just what did you say that enabled you to make the arrest?"

"I said, 'This is a citizen's arrest. You are my prisoner.'"

"Just those words? Nothing more?"

"Just those words. They're enough. Then I had somebody call the cops."

I rubbed my jaw. "Not another word?"

"None. I didn't *need* any more than that."

So that was it, I thought. The little flaw in the case, and the reason that the assistant D.A. had been so willing to accept a guilty plea.

I tried to look shocked. "You mean to say that after you arrested

the defendant you did not inform him of his rights? His *right* to remain silent? His *right* to an attorney?"

His mouth dropped slightly. "I never thought . . . I mean, this was a *citizen's* arrest and I don't think you *need* to . . ." He seemed to be sweating. "Besides, when the police got here, *they* informed him of his rights. I heard them myself."

"Yes, but that was *after* this alleged confession, wasn't it?" I clicked my tongue. "Surely you must be aware of the Miranda Decision? A confession obtained before an arrested person is informed of his rights is not admissible in court. The Supreme Court justices made no distinction between the arrests made by the regular authorities and those made by private citizens, now did they?"

There was a silence while he glared.

I smiled. "It would be extremely embarrassing for you if I brought up this point in court—before all of your friends and neighbors—the world, so to speak. Instead of a hero, you would be a . . . what?"

Morgan looked a little ill.

"A fool? In front of all those people?" I shook my head sadly. "So what do we really have here? The word of a young man who has no motive whatsoever for robbery against that of a man with a short

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temper and a record for assault. We have an *alleged* holdup, but no actual witnesses to prove that it occurred."

I allowed another silence.

I smiled again. "Now isn't it better to forget and forgive? Suppose we phone the D.A.'s office and explain that the whole thing was just a misunderstanding and that the defendant will not press charges."

"Press charges?"

"Yes," I said. "For assault and battery."

He sighed and reached for the phone.

When I left Morgan, I walked on to a restaurant several doors down the square.

I took a table next to the window and waited for the waitress. I glanced outside.

I watched this kid in the black leather jacket wandering slowly among the cars in the parking lot, his eyes interested.

I had an idea what he was looking for. Ignition keys still in the cars.

When would people learn to—

He stopped at my car, hesitated only a second or two, and then slid

inside. A wisp of smoke from the exhaust told me that he had started the engine.

I jumped from my chair, raced out of the restaurant and into the parking area.

He was just about to pull out when I reached through the open window, turned off the ignition, and pulled out the key.

"Hey," the kid said. "What the hell . . ."

Half a dozen interested spectators moved in to see what was happening. Obviously I was the center of attention.

I rose to the occasion. "This is a citizen's arrest. You are my prisoner."

His mouth opened and there was no telling what he might say—possibly even confess.

I quickly held up my hand. "You have the right to remain silent. If you do not choose to remain silent, you may be represented by an attorney of . . ."

I recited the entire warning.

After all, I didn't want the punk to get away with trying to steal my car just because of some lousy technicality.

